

Extend economic nexus to retail activities

Description This proposal extends the business and occupation (B&O) tax to out-of-state businesses engaging in retail activities in Washington without a physical presence in this state. These out-of-state businesses would be subject to the retailing B&O tax classification if they meet any one of the following economic nexus thresholds:

- More than \$267,000 of gross receipts are from Washington;
 - More than \$53,000 in payroll or property is in Washington; or
 - At least 25% of the business's receipts, property, or payroll is in Washington.
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Current Law An out-of-state business is subject to tax in this state when nexus is present. Washington state's nexus standards include physical presence nexus, economic nexus, and click-through nexus.

Physical Presence

Physical presence nexus applies to businesses making retail sales in this state if the business has:

- Property or employees in this state; or
- Presence in this state, either directly or through an agent or other representative.

Economic Nexus

Economic nexus applies to out-of-state businesses earning income under an apportionable B&O tax classification, such as royalties and wholesale activities when the business is:

- Organized or commercially domiciled in Washington;
- Grosses more than \$267,00 in Washington state;
- Payroll is more than \$53,000 in Washington state; or
- At least 25 percent of total property, payroll or income is from Washington State.

Click-through Nexus

In 2015, Washington state adopted "click-through" nexus, where remote sellers are presumed to have physical nexus with this state if they enter into agreements with Washington residents who, for a commission or other consideration, refer potential customers to the remote seller through a link on a website, and generate more than \$10,000 in gross receipts during the prior calendar year. If these conditions exist, the remote seller is subject to retailing business and occupation tax and must collect retail sales tax from their Washington customers.

**Revenue
Impact**

General Fund Impacts (\$ millions):

# of Impacted Taxpayers	FY 2016	FY 2017 ²	2015-17 Biennium	FY 2018	FY 2019	2017-19 Biennium
10,000	\$ -	\$ 31.2	\$ 31.2	\$ 36.2	\$ 38.4	\$ 74.5

Notes:

- Estimates assume a July 1, 2016 effective date, representing 11 months of collections for FY 2017.
- Estimates reflect the November 2015 Economic and Revenue Forecast Council revenue forecast.

**Expenditure
Impact**

FY 2016	FY 2017	2015-17 Biennium	FY 2018	FY 2019	2017-19 Biennium
\$ 214,900	\$ 543,600	\$ 758,500	\$ 432,400	\$ 376,500	\$ 808,900